

JPA File No.: 07-005 I
AG Contract No.: P001 2007 000068
Project: Road Widening, Improvements
Section: Mesquite Ave
TRACS No.: HF146 01C
Budget Source Item No.: HURF

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
CITY OF LAKE HAVASU CITY

THIS AGREEMENT is entered into this date June 29th, 2007, pursuant to the Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF LAKE HAVASU CITY, acting by and through its MAYOR and CITY COUNCIL the ("City"). The State and the City are collectively referred to as "Parties".

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-334 and § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

3. The State has approved the exchange of Highway User Revenue Funds (HURF) pursuant to the amounts and schedule shown in column D of the table below for Mesquite Avenue road widening with curb, gutter and sidewalk improvements, from Lake Havasu Avenue to Smoketree Avenue, hereinafter referred to as the "Project." Such funds shall be repaid to the State by withholding from the Western Arizona Council of Governments (WACOG) Federal Apportionment and corresponding Obligation Authority as shown in column B and C in the table below. All such transactions to be made in accordance with the schedule shown in column A.

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

NO. 29003
Filed with the Secretary of State
Date Filed: 6-29-07

Janice K. Stevens
Secretary of State

By: Brian Montano

A Federal Fiscal Year to be Processed	B STP Apportionment to be Charged to WACOG	C STP Obligation Authority to be Charged to WACOG	D 90 %HURF Funds to be Transferred to City
<u>Construction</u>			
FFY 2007	\$645,234.00	\$556,000.00	\$500,400.00
Total	\$645,234.00	\$556,000.00	\$500,400.00

II. SCOPE OF WORK

1. The City shall:

a. Provide design plans, specifications and other such documents and services required for construction bidding and construction of the Mesquite Avenue road widening with curb, gutter and sidewalk improvements, from Lake Havasu Avenue to Smoketree Avenue, to the State prior to advertisement of the Project. The State's Local Government Section will then verify the work and location meet the requirements for HURF exchange.

b. Advertise for bids and award one or more construction contracts for the Project. Administer contracts for the project and make all payments to the contractor(s). Be responsible for any contractor claims for extra compensation due to delays or whatever reason attributable to the City. Comply with all applicable State Laws, Rules and Regulations.

c. Invoice the State for thirty percent (30%) of the total programmed HURF funds found above in Column D upon award of the construction. Total payment by the State to the City shall not exceed the amounts shown in column D above for the Federal Fiscal Year 2007 in which the billing is made.

d. Invoice the State for an additional thirty percent (30%) of the total programmed HURF funds when the Project reaches the thirty percent (30%) completion stage. Total payments by the State to the City shall not exceed the amounts shown in column D above for the Federal Fiscal Year 2007 in which the billing is made, plus any carryover amounts not previously paid in prior years.

e. Invoice the State for an additional thirty percent (30%) of the total programmed HURF funds when the Project reaches the sixty percent (60%) completion stage. Total payments by the State to the City shall not exceed the amounts shown in column D above for the Federal Fiscal Year 2007 in which the billing is made, plus any carryover amounts not previously paid in prior years.

f. Upon satisfactory completion of construction, approve and accept the Project on behalf of the City and at its own expense, provide for maintenance. After the final close out Field Review, provide the State with a letter documenting the notice of the approval and acceptance of the project.

g. Prior to invoicing the State for the remaining ten percent (10%) of the Project costs, coordinate with the State on a final field inspection to make certain the Project has been satisfactorily completed and accepted by the City. Total payments by the State to the City shall not exceed the amounts shown in column D above for the Federal Fiscal Year 2007 in which the billing is made, plus any carryover amounts not previously paid in prior years.

2. The State shall:

a. Charge WACOG STP Apportionment in the amount of \$645,234.00 and WACOG Obligation Authority in the amount of \$556,000.00 for Mesquite Avenue road widening with curb, gutter and sidewalk improvements, from Lake Havasu Avenue to Smoketree Avenue .

b. Within thirty-days (30) after receipt and approval of invoices at construction award, and also the thirty (30%) and sixty percent (60%) construction completion stages, advance the City HURF funds in the amount of 30% at each invoiced stage of construction.

c. Coordinate with the City on a final field inspection to make certain the Project has been satisfactorily completed and accepted by the City. Within 30 days after receipt and approval of the final invoice, remit to the City HURF Funds or the remaining ten percent (10%) of \$500,400.00 for Mesquite Avenue road widening with curb, gutter and sidewalk improvements, from Lake Havasu Avenue to Smoketree Avenue .

III. MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of said project, except any provisions for maintenance shall be perpetual, unless assumed by another competent entity. Further, this Agreement may be canceled at any time prior to the award of the project construction contract, upon 30 days written notice to the other party. It is understood and agreed that in the event the City cancels this Agreement, the State shall in no way be obligated to maintain said project.

2. The State assumes no financial obligation or liability under this Agreement, or for any resulting construction Project. The City assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost overruns and construction claims. The City shall require its contractors to name the State and ADOT as an additional insured in the contractor's policies. The City shall also require its contractors to name the State and ADOT as an additional indemnitee in the City's contracts with its contractors. It is understood and agreed that the State's participation is confined solely to advancing Highway User Revenue Funds; that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof, shall be solely the liability of the City and that to the extent permitted by law the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or nonperformance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees.

3. This Agreement shall become effective upon filing with the Secretary of State.

4. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

5. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

6. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

7. This Agreement is subject to all applicable provisions of the Americans with Disability Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28

CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

8. Non-Availability of Funds: Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments as a result of termination under this paragraph.

9. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:


Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 616E
Phoenix, Arizona 85007
(602) 712-7525
(602) 712-7424 Fax

City of Lake Havasu City
Attn: City Manager
2330 McCulloch Blvd N.
Lake Havasu City, Arizona 86403
(928) 453-4141
(928) 680-4892 Fax

10. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

CITY OF LAKE HAVASU CITY


By 
MARK S. NEXSEN
Mayor

STATE OF ARIZONA

Department of Transportation

By 
DALE BUSKIRK
Division Director

ATTEST:

By 
CARLA SIMENDICH
City Clerk

G:\HURF Lake Havasu City road widening
Initial Draft 2-2-07 ghc
Revised 3/16/07 ghc

ATTORNEY APPROVAL FORM FOR THE CITY OF LAKE HAVASU CITY

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 12th day of June, 2007.



City Attorney

COPY

RESOLUTION NO. 07- 2173

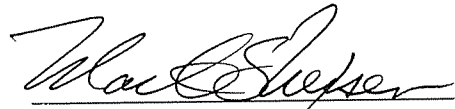
**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF LAKE HAVASU
CITY, MOHAVE COUNTY, ARIZONA, AUTHORIZING THE
MAYOR TO EXECUTE AN INTERGOVERNMENTAL
AGREEMENT WITH THE STATE OF ARIZONA (ADOT)
FOR CONSTRUCTION OF IMPROVEMENTS TO
MESQUITE AVENUE**

WHEREAS, the Arizona Department of Transportation has approved the exchange of \$556,000.00 in Highway User Revenue Funds (HURF) to the City for construction of improvements to Mesquite Avenue Avenue in the City; and


WHEREAS, Lake Havasu City agrees to construct the Mesquite Avenue Improvement project, for an estimated construction cost of \$1,011,048.25;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council hereby approve this intergovernmental agreement for the intent and purpose stated above, and authorize the Mayor to execute said agreement with the State of Arizona (ADOT) relating to the construction of improvements to Kiowa Avenue.

PASSED AND ADOPTED by the Mayor and City Council of Lake Havasu City, Arizona, this 12th day of June, 2007.


Mark S. Nexsen, Mayor

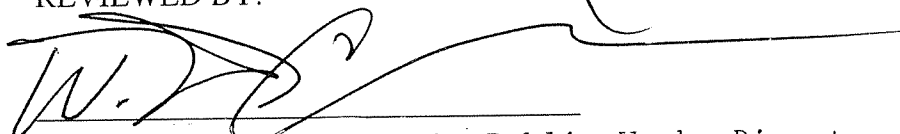
ATTEST:


Carla Simendich, City Clerk

APPROVED AS TO FORM
LAKE HAVASU CITY ATTORNEY'S OFFICE:

BY: 


REVIEWED BY:



W. Mark Clark, Interim Public Works Director



June 12, 2007 Meeting Summary

Line Item	Summary	Final Action
06a	Approval of May 15, 2007 and May 22, 2007 Budget Work Session and May 29, 2007 Special Meeting minutes	Approved
06b	Adopt Resolution No. 07-2166 abandoning a portion of a PU&DE @ 1802 Palo Verde Blvd N (07-02300021); L3, B 2, T 2299; Bauer	Adopted
06c	Adopt Resolution No. 07-2167 abandoning a PU&DE @ 2500 Mariner Lane (07-02300022); L 8, B 6, T 119A; Hutson	Adopted
06d	Adopt Resolution No. 07-2168 dedicating a PU&DE @ 17 & 23 Nolina Lane (07-02300022); L 9 & 10, B 6, T 199A; Hutson	Adopted
06e	Approve condominium subdivision final plat @ 2800 Tonto Drive (07-01400028); Oasis Condominiums; A.P.L. Surveying	Approved
07B	Announce vacancy on the Americans with Disabilities (ADA) Advisory Board. Applications accepted until 5:00 p.m. Tuesday, June 26, 2007	Announced
07C	City Manager Report	Report given
08	Update on North Park and the seawall projects	Update given
09	Series #03 (Out of State Importer/Exporter) liquor license for Mudshark Brewery, 1095 Aviation Drive; Stocking	Recommended Approval
10	Recommend approval: Series #12 (Restaurant) liquor license for Thai Nakarin, 2010 McCulloch Boulevard; Hempstead	Recommended Approval
11	Major amendment to The Shops at Lake Havasu Planned Development for the purpose of approving a signage element for the development (07-00200006); Frye	Adopted Ordinance No. 07-878 w/conditions
12	Request for zone change from R-1 (Single-Family Residential) to C-O (Professional Office) @ 1600 Willow Avenue; Wells	Adopted Ordinance No. 07-879
13	Discussion and possible direction re: King's View overnight mooring in Bridgewater Channel	No action taken
14	Discussion and possible direction re: Shade cover structures in setbacks	Direction to abide by current code w/90 days after notice to comply
15	Discussion and possible direction re: R/UDAT Pima Wash improvements, Phase 1 (McCulloch Boulevard to Mesquite Avenue), Project No. PW1520	Budget \$600,000 for R/UDAT projects
16	Adopt Resolution No. 07-2169 adopting the five-year Community Investment Program (CIP) for Fiscal Years 2008-2012	Adopted w/changes
17	Adopt Resolution No. 07-2170 adopting the Fiscal Year 2007-08 Tentative Budget	Adopted w/changes
18	Authorize execution of fee agreement and engagement letters between LHC, Ford & Harrison, and individual defendants to secure representation for the Alexander v. LHC matter and approve expenditures for outside legal counsel for professional legal services from the General Contingency Fund	Authorized

19	Adopt Resolution No. 07-2171 authorizing city manager to sign a Memorandum of Understanding with the Lake Havasu Professional Firefighters Association	Adopted
20	Adopt Resolution No. 07-2172 authorizing city manager to sign a Memorandum of Understanding with the Lake Havasu Police Officers Association	Adopted
21	Approve use of general contingency funds for ongoing general government insurance premiums and claims payments for remainder of fiscal year 06-07	Approved
22	Approve amendment to Havasu Air Center lease agreement to sublease space for rental vehicles	Approved
23	Approve amendment to Havasu Air Center lease agreement to provide tenant protection in the event of landlord default of master lease	Approved
24	Approve use of Tourism/Economic Development contingency funds to distribute final disbursement to the Convention and Visitors Bureau for FY 2006-07	Approved
25	 Adopt Resolution No. 07-2173 authorizing Intergovernmental Agreement (IGA) with the Arizona Department of Transportation for construction of improvements to Mesquite Avenue	Adopted
26	Authorize Police Department to purchase police vehicle communication equipment through state bid	Approved
27	Ratify purchase order to Weber Group for emergency evaluations and repairs to Port Drive water treatment plant high service pump station	Approved
28	Award construction agreement for Public Works maintenance facility bay expansion, Project No. PW1400RB2	Awarded to Roman Construction, Inc. NTE \$223,966
29	Approve sole source purchase for repair and maintenance parts for Island and Mulberry Treatment Plant aeration bridges	Approved for Schreiber LLC for \$48,836 plus freight
30	Award bid: Annual wastewater bulk chemicals, Project No. WW0705	Awarded to Hill Brothers Chemical and Thatcher Co. of AZ
31	Award Bid and sole source exemption for 4x2 cab/chassis with 18-ton telescoping crane, Bid No. B07-0007	Awarded to Custom Truck & Equipment, LLC, of Kansas City, MO for \$133,302.60 including sales tax
32	Award Bid: GM cab/chassis and 34-foot telescoping aerial material/manlift device, Bid No. B07-0005	Awarded to Trucks West of NV for \$93,694.69 including sales tax
33	Award Bid: GM cab/chassis and 54-foot telescoping aerial material/manlift device, Bid No. B07-0006	Awarded to Trucks West of NV for \$145,085.21 including sales tax
34	Award Bid: 2.5 cubic yard front end loader, Bid No. B07-0002	Awarded to Hertz Equipment Rental of Las Vegas, NV for \$113,207.99 including sales tax

<p>TERRY GODDARD Attorney General</p>	<p> OFFICE OF THE ATTORNEY GENERAL STATE OF ARIZONA</p>	<p>CIVIL DIVISION TRANSPORTATION SECTION Writer's Direct Line: 602.542.8855 Facsimile: 602.542.3646 E-mail: Susan Davis@azag.gov</p>
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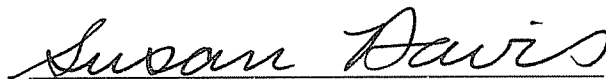
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. P001-2007-000068 (**JPA 07-005-I**), an Agreement between public agencies, i.e., The State of Arizona and City of Lake Havasu City, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: June 26, 2007

TERRY GODDARD
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:mjf:18700
Attachment